

Civil Appeals.

Rejoinders not to be called for on appeals
to Government without express orders of
Government.

No. 3181.

POLITICAL DEPARTMENT.

Bombay Castle, 18th May 1897.

C I R C U L A R .

It is noticed that appellants are sometimes put to the unnecessary expense of preparing rejoinders to their appeals to Government and that the submission of appeals is consequently delayed. Political Officers should accordingly be informed that rejoinders should not be called for except under the orders of Government.

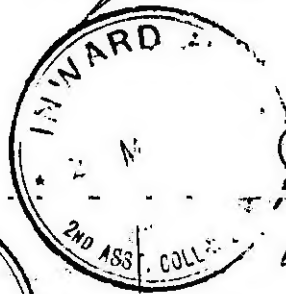
S. W. EDGERLEY,
Secretary to Government.

To
All Political Officers (except the Political Resident, Aden).

No 4036 of 1897

26 May 1907

Copy forwarded for information
& guidance to the Assistant
Political Agent.



Placed
Head-clerk

file

Civil Second Appeal No. 25 of 1897.

Sávanur.

Mahomed Saheb walad Peer Mahomed } *Special Appellant*
Haji *alias* Shekji Saheb of Sávanur. } (*Original Plaintiff*).

vs.

Abdul Tabrejakha Saheb Furjand } *Special Respondent*
Abdul Dilavarkha Saheb of Sávanur. } (*Original Defendant*).

No. 4690.

POLITICAL DEPARTMENT.

Bombay Castle, 28th July 1897.

Memorandum from the Political Agent, Sávanur, No. 5265, dated the 13th July 1897—
Submitting, for the orders of Government, a memorandum of special appeal, dated
the 5th June 1897, from Mahomed Saheb walad Peer Māhomēd-Haji *alias* Shēkji
Saheb of Sávanur, against a decision of the Political Agent, Sávanur, dated the 5th
February 1897, in Civil Appeal No. 3 of 1897.

RESOLUTION.—The appeal is dismissed as time-barred.

S. W. EDGERLEY,
Secretary to Government.

To

The Political Agent, Sávanur (with a request that he will communicate
this decision to the parties concerned).

No 6792 of 1897.

4 August 1897.

Copy forwarded to the Assistant
Political Agent, for information
& for communication to the
Dewan.

WV

Political Agent.

No 12842
12-842

Rev.
468 of 1897

Rev. 9th August 1897

Forwarded to the Collector and Political
Agent Ocharwar as the Assistant Political Agent's
charge during the absence of Mr. Anderson on privilege leave
is with him.

Dist by 6 Mestor 2nd. 1
and 2nd collector

Civil Second Appeal No. 27 of 1897.

Sávanur.

Ramchandrappa bin Irappa Tatti of Sávanur. { *Special Appellant*
(*Original Defendant*).

vs.

Venkapa bin Shinapa Betigeri of Sávanur... { *Special Respondent*
(*Original Plaintiff*).

No. 6448.

POLITICAL DEPARTMENT.

Bombay Castle, 20th October 1897.

Memorandum from the Political Agent, Dhárwár, No. 7574, dated the 7th September 1897—
Submitting, for the orders of Government, a memorandum of Special Appeal, dated the
24th August 1897, from Ramchandrappa bin Irappa Tatti of Sávanur against the
decision of the Political Agent, Sávanur, dated the 9th June 1897, in Civil Appeal
No. 9 of 1897.

RESOLUTION.—No second appeal lies in a case such as that now submitted.
The appeal is rejected.

S. W. EDGERLEY,
Secretary to Government.

To, The Political Agent, Dhárwár (with a request that he will communicate
this decision to the parties concerned).



No.

Shanwar

October 1897

Copy forwarded to the Assistant
Political Agent for information.

R. S. M.
Head clerk.

No 190 of 1897

29 August 1897

Forwarded to the Bureau of Savanes
for information and return.

recd 31-8-97.

No. 8 of 1897-98

J. and

Savanes 30th Aug 1897 Asst. Pol Agent
Returned with compliments to the Assistant
Political Agent.

I beg to state that a copy transcribed from
the original has been placed on record. 32
J. and
Bureau of Savanes

Limitation.

Relative to the method of computing the time to
be excluded in the case of appeals & applications
under Section 12 of Limitation Act 1877.

No. 6579.

Political Department.

Bombay Castle, 22nd November 1878.

Circular.

The attention of Political Officers is drawn to
Section 12 of the Limitation Act (Act ~~XXV~~ of 1877)
and to the ruling in the case of *Beeli vs. Ahsanullah*,
J. L. R., 12 All 461 (Full Bench), viz.,

"A court, in computing, under Section 12
of the Limitation Act, 1877, the time requisite for obtaining
a copy of a decree or of a judgment, has no discretion,
and is confined to ascertaining for the purposes of such
computation the time occupied by the office, after appli-
cation made in preparing the estimate, and after
payment of the amount of the estimate has been
made, the time occupied by the office in preparing

The copy or copies ready to be delivered to the party who had applied for them."

In accordance with the principle there laid down, in computing the time requisite for obtaining a copy, the date on which the application reaches the court, and not the date on which it may have been forwarded or posted, should be taken as the starting-point of the period to be deducted; and the period is determined when the copy is ready for delivery, not when the appellant or applicant chooses to apply for it.

In cases, however, where the above method of computation may operate harshly, e.g. where the appellant or applicant lives at a distance from the court and the interval between the date when the copy was ready for delivery and the date of its delivery to him is not due merely to want of diligence on his part in applying for or obtaining the copy, it is open to the court to whom the appeal or application is made to admit it, although presented beyond the

prescribed period of limitation, under section 5 of the Act, on being satisfied that the appellant or applicant had sufficient cause for not presenting it within such period.

2. Government are inclined to think that the adoption in future of the above principle in the case of all appeals & applications made to Government from the Courts of Political Officers would be desirable and prevent some abuses which have come to notice in the past, where parties have unreasonably delayed taking delivery of copies after they are ready. But before issuing any general direction to that effect, Government desire to be furnished with information as to the practice followed in political Agencies & Superintendencies in furnishing copies of decrees or judgments applied for or is, whether payment is made for such copies on an estimate in advance, or a fixed sum is deposited from which the cost of making the copies is deducted, whether parties receive any notice that copies applied for are ready, and if so, in

in what manner such notice is given, & whether the copies are sent to the parties or kept till they apply for them. It must be borne in mind that if the principle as above stated is to be extended to the Agency Political & Civil Courts' practice in these matters should as far as possible be such as to avert any hardship in the great majority of cases, & in reporting on the Subject Political Officers should state how they would propose to give reasonable effect to the principle in question, by improving the existing arrangements for furnishing copies or otherwise.

3. In any case it seems desirable that Government should reserve to themselves a discretion such as High Courts exercise in reference to applications under sections 622, Civil Procedure Code, to admit at any time appeals or applications otherwise time-barred, whenever the interests of justice require it. It should be reported what alteration would be necessary in the Limitation Laws in force in each Agency or Superintendency in order

to give effect to this proviso.

(sd) S. W. Egerly.
Secretary to Government.

To, The Commissioner in Lind,

Ditto, N. D.

Ditto, C. D.

Ditto S. D.

All Political Officers (except The Political
Resident Aden.)

No 8881 Sharwar.

30-11-98.

copy forwarded to the Assistant Political Agent

for report on the points noted in paras 2 & 3
of the Government Resolution.

(sd) Mr. Hill.

Poll Agent

No 339 of 1898

Forwarded to the Division of Lavanur for
compliance & return.

8-12-98
2

(sd) A. Wiesthoff

A. P. Agent.

10-12-98.

J. No 18-

No. 39 of 1899

6th ~~January~~ February 1899

Returned with compliments.

with reference to the 2nd para of the Government circular w.s. respectfully begs to report that when parties apply for copies of decrees or judgments by presenting themselves before the court, payment is made for such copies on an estimate in advance and they are informed that copies may be ready about a certain date and that they should then apply for them, but no record is made to that effect below the applications. Generally they appear to take delivery about that date but not necessarily. If they fail to

36

appear on the date on which copies are ready for delivery, they are kept till applied for.

When such applications are sent through post a lump sum is remitted by ~~them~~ ~~the~~ to In. order from which the cost of making the copies is deducted and the excess, if any is refunded. If in any case the amount so remitted falls short of the ^{difference} cost, the deficit is recovered before making delivery. If transmission of copies per post is requested in the application, the request is granted and the date of despatch recorded on the op. The existing arrangement ^{in the opinion of the U.S.} is defective and ~~is not, in the opinion~~ ^{consequently} ~~of the~~, suitable to give effect to the principle in question.

The U.S. begs therefore to propose that when parties or their pleaders present such applications in person, they should be informed that copies will be ready on a certain date & that they should on that date appear to take delivery, and endorsement to that effect should

be made on the application under the signature
of the presiding officer of the Court or any other
person authorized by him in this behalf if on
that date, owing to unavoidable reasons, the
copy is not ready and the applicant appears to
take delivery he should be asked to apply for
the same on a future date to be fixed by the officer
and further endorsement to that effect should
be made on the application. When a copy ^{is} delivered
on the date of its being ready for delivery, it
should be noted on the copy that the copy was
ready for delivery and delivered on such & such
date. If the applicant fails to apply for it
on the date so notified to him, the date on
which the copy was ready for delivery and that
on which it was delivered should be distinctly
recorded on the copy. Thereon

When such applications are sent through

port, the date on which they reach the court-
should be taken as the starting point of the
period to be deducted. The copy should be despatched
on the date on which it will be ready for delivery
and the date of despatch noted ~~on the copy thereon~~,
~~In cases the date~~

By such arrangement, ~~it may be held that~~
~~in case it may be held that in computing the~~
~~time requisite for obtaining a copy, the period is~~
~~determined when the copy is ready for delivery.~~
There seems to be no objection to adopt the principle
in question.

2. No time has been fixed by the ^{existing} Limitation
Law ^{now} in force for presenting applications under
Section 622, Civil Procedure Code. But the High
Court of Alhabad have ruled (in the case of
Bal Mukund vs. Shri Jalau (I.L.R. 6 Alhabad series
125 & Barga Prasad vs. Shrivaram I.L.R. 4 All. 154.)

That such applications should ^{be} made as early as
possible. The v.s. is of opinion that ~~for such~~ ^{for the time for presenting}
such appeals or applications as are referred to in paras 3 of the 9. circular.

The time in the opinion of the v.s. should be fixed at 3 months & that the existing Limitation Law attires accordingly.

W. D. D. D.

*Reciprocity in the free service of Civil, Criminal and Revenue processes between
the Indore State and the British Districts of the Bombay Presidency.*

Letter No. 2700, dated the 7th March 1902.

From—The Honourable the Agent to the Governor-General in Central India;

To—The Acting Chief Secretary to Government, Political Department, Bombay.

With reference to Mr. Edgerley's letter No. 2429, dated the 9th April 1897, I have the honour to forward six copies of a judicial Circular* issued by the Indore Darbar regarding the free service of Civil, Criminal and Revenue processes, and to request that, if His Excellency the Governor in Council sees no objection, Courts in Bombay may be instructed not to remit money for the service of any processes or summonses in Indore territory. All processes, whether Civil, Revenue or Criminal, from Bombay will in future be served free of cost in Indore in the same manner as Civil and Revenue processes from the Indore State Courts are now served free in Bombay.

No. 2897.

POLITICAL DEPARTMENT.

Bombay Castle, 18th March 1902.

RESOLUTION.—A copy of the above letter from the Honourable the Agent to the Governor-General in Central India should be forwarded to the Judicial Department, with reference to the correspondence ending with that Department memorandum No. 2600, dated the 30th March 1897, and to the Revenue Department, with reference to Government Resolution No. 1073, dated the 11th February 1897, in the Political Department, for information and such action as may be considered necessary in those Departments.

J. L. JENKINS,

Acting Chief Secretary to Government.

To

The Judicial Department of the Secretariat,
The Revenue Department of the Secretariat,
The Honourable the Agent to the Governor-General in } (By letter.)
Central India.

No. 2634 OF 1902.

REVENUE DEPARTMENT.

Bombay Castle, 21st April 1902.

Copies forwarded for information and guidance to—

The Commissioner, N. D.,
The Commissioner, C. D.,
The Commissioner, S. D.,
The Commissioner in Sind,
and

All Collectors, including the Collectors and Deputy Commissioners in Sind,

with reference to Government endorsement No. 1879, dated 9th March 1897.

P. J. MEAD,

Under Secretary to Government.

* Printed on the reverse.

No 2962 of 1902

Dharmward 2nd May 1902

Copy forwarded for information & guidance
to the Assistant Political Agent
Sawar. R. J. K. M. S.

No 234 of 1902

Camp Tadas 14/5/02

Forwarded to the demand
of Sawar for information
and guidance.

Smashed -
181. apr. 1902

INDORE DARBAR JUDICIAL STANDING

CIRCULAR No. 11 OF 1310 FASLI.

With reference to previous Notifications on the subject it is hereby notified for the information and guidance of all concerned that legal processes—Civil, Revenue and Criminal—of the Courts of all Native States in Central India and of the Courts of the undermentioned Districts and Provinces of British India will be executed free of process fees or postage fees by the Courts in the Indore State.

- | | |
|----------------------|--------------------------------------|
| 1. Indore Residency. | 4. Central Provinces. |
| 2. Mhow Cantonment. | 5. North-Western Provinces and Oudh. |
| 3. Ajmere-Merwara. | 6. Bombay Presidency. |

N'ANAK CHAND, C.I.E.,
Minister.

File
16-5-02
A. S. M.

*Reciprocity in the free service of civil and criminal processes between the
Indore State and the British Districts of the Bombay Presidency.*

Letter No. 2700, dated the 7th March 1902.

From—The Honourable the Agent to the Governor-General in Central India ;

To—The Acting Chief Secretary to Government, Political Department, Bombay.

With reference to Mr. Edgerley's letter No. 2429, dated the 9th April 1897, I have the honour to forward six copies of a Judicial Circular issued by the Indore Darbar regarding the free service of civil, criminal and revenue processes, and to request that, if His Excellency the Governor in Council sees no objection, Courts in Bombay may be instructed not to remit money for the service of any processes or summonses in Indore territory. All processes, whether civil, revenue or criminal, from Bombay will in future be served free of cost in Indore in the same manner as civil and revenue processes from the Indore State Courts are now served free in Bombay.

Indore Darbar Judicial Standing Circular No 11 of 1310 Fash.

With reference to previous Notifications on the subject it is hereby notified for the information and guidance of all concerned that legal processes—civil, revenue and criminal—of the Courts of all Native States in Central India and of the Courts of the undermentioned Districts and Provinces of British India will be executed free of process fees or postage fees by the Courts in the Indore State :—

- | | |
|----------------------|--------------------------------------|
| 1. Indore Residency. | 4. Central Provinces. |
| 2. Mhow Cantonment. | 5. North-Western Provinces and Oudh. |
| 3. Ajmere-Merwara. | 6. Bombay Presidency. |

No. 2397.

POLITICAL DEPARTMENT.

Bombay Castle, 18th March 1902.

RESOLUTION.—A copy of the above letter from the Honourable the Agent to the Governor-General in Central India should be forwarded to the Judicial Department, with reference to the correspondence ending with that Department memorandum No. 2600, dated the 30th March 1897, and to the Revenue Department, with reference to Government Resolution No. 1073, dated the 11th February 1897, in the Political Department, for information and such action as may be considered necessary in those Departments.

No. 1326, dated the 20th June 1902.

From—The Acting Registrar, High Court, Appellate Side, Bombay ;

To—The Acting Chief Secretary to Government, Judicial Department, Bombay.

I am directed by the Honourable the Chief Justice and Judges to acknowledge the receipt of your letter No. 2496, dated the 14th April 1902, forwarding, with reference to the correspondence ending with this office letter No. 466, dated the 15th March 1897, copy of a Resolu-

Jud 795

tion of Government in the Political Department, No. 2997, dated the 18th March 1902, regarding reciprocity in the free service of civil, criminal and revenue processes between the Indore State and the British Districts of the Bombay Presidency, and requesting that their Lordships may be moved to favour Government with their opinion as to whether there is any objection to the proposal of the Honourable the Agent to the Governor-General in Central India.

2. In reply, I am to say that their Lordships see no objection to the proposal.

No. 4415.

JUDICIAL DEPARTMENT.

Bombay Castle, 10th July 1902.

RESOLUTION.—Copies of the Resolution of Government in the Political Department should be forwarded to the High Court, the Judge of the Sadar Court in Sind, all District Judges, all District Magistrates, the Chief Presidency Magistrate, the Chief Judge of the Court of Small Causes, Bombay, and the Judges of the Courts of Small Causes in the Mofussil, with an intimation that Government approve of the proposal of the Honourable the Agent to the Governor-General in Central India.

(Signed) A. S. A. WESTROPP,
Under Secretary to Government.

To

The Registrar, High Court, Appellate Side, Bombay,
The Prothonotary and Registrar, High Court, Original Jurisdiction, Bombay. } By letter.
The Commissioner in Sind,
The Commissioner, N. D.,
The Commissioner, C. D.,
The Commissioner, S. D.,
The Judicial Commissioner in Sind,
All District Judges,
All District Magistrates,
The Chief Presidency Magistrate, Bombay,
The Chief Judge of the Court of Small Causes, Bombay,
The Judges of the Courts of Small Causes, Poona, Ahmedabad, Surat and
Broach, and Karachi,
The Political Department.

No. 6130 of 1902.

Dharwad 29 July 1902

Copy forwarded for information and guidance to the Dewan

Liaison

*Revised
Head Office*

*File
31-7-02
D. S. M.*

*Reciprocity in the free service of civil and criminal processes between the
Indore State and the British Districts of the Bombay Presidency.*

Letter No. 2700, dated the 7th March 1902.

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To—The Acting Chief Secretary to Government, Political Department, Bombay.

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Indore Darbar Judicial Standing Circular No 11 of 1310 Fashi.

With reference to previous Notifications on the subject it is hereby notified for the information and guidance of all concerned that legal processes—civil, revenue and criminal—of the Courts of all Native States in Central India and of the Courts of the undermentioned Districts and Provinces of British India will be executed free of process fees or postage fees by the Courts in the Indore State :—

- | | |
|----------------------|--------------------------------------|
| 1. Indore Residency. | 4. Central Provinces. |
| 2. Mhow Cantonment. | 5. North-Western Provinces and Oudh. |
| 3. Ajmere-Merwara. | 6. Bombay Presidency. |
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No. 2397.

POLITICAL DEPARTMENT.

Bombay Castle, 18th March 1902.

RESOLUTION.—A copy of the above letter from the Honourable the Agent to the Governor-General in Central India should be forwarded to the Judicial Department, with reference to the correspondence ending with that Department memorandum No. 2600, dated the 30th March 1897, and to the Revenue Department, with reference to Government Resolution No. 1073, dated the 11th February 1897, in the Political Department, for information and such action as may be considered necessary in those Departments.

No. 1326, dated the 20th June 1902.

From—The Acting Registrar, High Court, Appellate Side, Bombay ;

To—The Acting Chief Secretary to Government, Judicial Department, Bombay.

I am directed by the Honourable the Chief Justice and Judges to acknowledge the receipt of your letter No. 2496, dated the 14th April 1902, forwarding, with reference to the correspondence ending with this office letter No. 466, dated the 15th March 1897, copy of a Resolu-

Jud 795

tion of Government in the Political Department, No. 2397, dated the 18th. March 1902, regarding reciprocity in the free service of civil, criminal and revenue processes between the Indore State and the British Districts of the Bombay Presidency, and requesting that their Lordships may be moved to favour Government with their opinion as to whether there is any objection to the proposal of the Honourable the Agent to the Governor-General in Central India.

2. In reply, I am to say that their Lordships see no objection to the proposal.

No. 4415.

JUDICIAL DEPARTMENT.

Bombay Castle, 10th July 1902.

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(Signed) A. S. A. WESTROPP,
Under Secretary to Government.

To

The Registrar, High Court, Appellate Side, Bombay,
The Prothonotary and Registrar, High Court, Original Jurisdiction, Bombay. } By letter.
The Commissioner in Sind,
The Commissioner, N. D.,
The Commissioner, C. D.,
The Commissioner, S. D.,
The Judicial Commissioner in Sind,
All District Judges,
All District Magistrates,
The Chief Presidency Magistrate, Bombay,
The Chief Judge of the Court of Small Causes, Bombay,
The Judges of the Courts of Small Causes, Poona, Ahmedabad, Surat and Broach, and Karachi,
The Political Department.

No 6130 of 1902.

Copy forwarded for information and guidance to

Shairwast 19 July 1902
the Assistant
Political Agent, Savanur

Plavunath
Head clerk

22/7/02
No 451

Forwarded to the Divisional Officer

20/8/02

Comd
S. P. Agent.

22-8-02
file
R. S. P. H. K.

Native States—Relative to reciprocity in the matter of the service of processes and the execution of decrees between British Indian Courts, Courts established or continued by the Governor-General in Council, and Native State Courts.

Read—

Replies of Political Officers to Government Circular No. 8481, dated the 10th May 1901.

Letter to the Government of India, Foreign Department, No. 4717, dated the 27th June 1902.

Memorandum from the Assistant Secretary to the Government of India, Foreign Department, No. 4054-I.A., dated the 18th September 1902—Forwarding copies of that Department Notifications Nos. 4049—53, dated the 18th September 1902.

No. 7487.

POLITICAL DEPARTMENT.

Bombay Castle, 9th October 1902.

RESOLUTION.—The reports received from the Political Agents on the above subject appear to His Excellency the Governor in Council to show that the object and scope of the notifications under discussion are not very clearly appreciated either by the Native States or by Government's own officers. The States, at any rate in Káthiáwár, appear to regard the suggestion that their Courts should be included in notifications under sections 650-A or 229-B of the Civil Procedure Code with some suspicion, whereas such inclusion is the highest compliment to those Courts which Government can pay, testifying as it does, in a thoroughly practical form, to the opinion that Courts so included can on account of their efficiency and independence be placed on terms of equality, in regard to service of their summonses and execution of their decrees, with Courts of British India. It should be an object of ambition to the Ruler of every Native State, proud of his administration of justice, to extort from the Paramount Power the public admission of the efficiency of his Courts involved in the publication of such a notification—an admission which is accompanied by the extremely practical advantage that it enables the processes and decrees of his Courts to run in British India and be enforced by the Courts there established. His Excellency has therefore read with some surprise the account of the extreme caution with which representatives of States in Káthiáwár have dealt with the subject and it is certainly a matter of regret that the Courts of none of the States, either of the First or Second Class, find a place in the notifications hitherto issued under the Civil Procedure Code, section 229-B.

2. Before revising the notifications, otherwise than is necessary to bring them up to date, it is considered desirable to explain as fully as possible their aim and scope and to enunciate the principles on which the Native State Courts should be admitted to the privilege of reciprocity.

3. The object of these notifications is to provide a proper sanction, which shall protect the incumbents of the British Courts concerned in (a) the service of processes, and (b) the execution of the decrees of—

(i) British Indian Courts,

(ii) Courts established or continued by the authority of the Governor-General in Council in the territories outside British India and therefore not directly covered by Acts of the British Indian Legislature, and

(iii) Native State Courts.

4. *First, as to British Indian Courts.*—These Courts are created and their powers and duties regulated by the Indian Legislature and in this matter they are governed by the provisions of the Civil Procedure Code, the relevant sections of which are 229, 229-B and 650-A. Section 229 provides that British Indian Courts may execute the decrees of Courts of the Governor-General in Council and section 650-A makes a similar provision for the service of processes. It will be seen therefore that service of the processes and the execution of the decrees of Courts established by the Governor-General in Council in areas beyond British India (*British Courts*, but *not* Courts established by or under the direct authority of the Legislature) are secured in British India by direct act of the Legislature. But lest a British Indian Court, on receiving such process for service or decree for execution, may be ignorant of the authority of the Court which has issued the process or decree to require it to proceed to service or execution, a notification is issued (Foreign Department notification No. 4049-I.A., dated the 18th September 1902) of which all British Courts under section 37, Act I of 1872, are bound to take judicial notice. That notification should therefore include all British Courts with an area of Original Civil Jurisdiction in territories outside British India whose processes and decrees it is desired should run in British India. Sections 229-B and 650-A, respectively, provide that British Indian Courts may also execute the decrees and serve the processes of *such Courts of Native States as may be notified by the Governor-General in Council* under the respective sections: that is, these Courts have to be selected and approved before they are granted this privilege of extension of their jurisdiction into British territory. Two of the sub-joined notifications are designed to set forth the Courts of Native States to which has been extended the privilege of having their processes served (Foreign Department notification No. 4053-I.A., dated the 18th September 1902) and their decrees executed (Foreign Department notification No. 4052-I.A., dated the 18th September 1902) in British India.

5. *Secondly, as to Courts established or continued by the Governor-General in Council outside British India.*—The liability of subjects of His Majesty and the delegation of executive or judicial authority to Courts or servants outside British India is regulated, so as to bind Courts established by the British Legislature within British India, by Act XXI of 1879. Notifications under this Act therefore are used to impose duties on this class of Courts. A general notification (Foreign Department notification No. 4049-I.A., dated the 18th September 1902) giving a list of this class of Courts has been issued as explained above to enable British Indian Courts to easily determine which Courts of this class they should recognise with reference to sections 90, 229, 229-A, 229-B and 650-A of the Civil Procedure Code. Section 229-A of the Civil Procedure Code provides that decrees of British Indian Courts may be sent for execution to any Court established or continued by the authority of the Governor-General in Council, &c., to which the Governor-General in Council has by notification in the *Gazette of India* declared this section to apply: a notification (Foreign Department notification No. 4050-I.A., dated the 18th September 1902) is therefore necessary to enable decrees of British Courts to run within the area of jurisdiction of Courts established by the Governor-General in Council without British India and to protect the officials of those Courts in executing them. This notification issued under Act XXI of 1879 imposes on such Courts the duty and gives them the authority to execute the decrees of British Indian Courts. Section 89 of the Civil Procedure Code provides that processes of British Indian Courts may be posted direct to anybody residing out of British India; but if there is a British Resident or Agent or a Superintendent appointed

by the British Government or a Court established by the Governor-General in Council in or for the territory in which such person resides, section 90 provides that the process may be sent to such officer or Court for service. But as the Civil Procedure Code cannot impose on Courts outside British India the duty of serving the processes the Government of India have issued under Act XXI of 1879 a Notification No. 1366-I., dated the 29th March 1889, requiring such Courts to serve the processes of British Indian Courts. Reciprocity between Courts of the Governor-General in Council established in areas outside British India *inter se* has been provided for by Government of India Notifications Nos. 1367-I. and 1363-I., dated the 29th March 1889, in the matter of the service of processes and of the execution of decrees, respectively. The above resumé will show that, by utilising the various means at their disposal, the British Government have provided for complete reciprocity between their own Courts whether within or without British India in the matter of service of summonses and execution of decrees and have defined the Courts outside British India to which the orders apply.

6. *Lastly, as to the Courts of Native States.*—The first essential of the grant of any privileges in British areas to these Courts is that the States concerned must equally undertake to serve the processes or to execute the decrees, as the case may be, of all British Courts. The authority to impose this duty on Courts of a Native State is of course the Darbar concerned. The inclusion of their Courts in these Notifications has to be arranged if at all by the respective States by *negotiation*. Reciprocity is the first basis of negotiation and assuming that the States concerned give that, Government of India Notification No. 2182-I., dated the 2nd July 1890, enables their summonses to be served by British Courts *outside* British India and Foreign Department notification No. 4051-I.A., dated the 18th September 1902, enables their decrees to be executed in the same areas. As regards British Indian Courts the privileges are conceded by notification as regards service of summonses under section 650-A, and as regards execution of decrees by a notification under section 229-B. In either case the Chiefs concerned give the necessary orders to *their* Courts. Where a Chief has not full civil powers he issues orders to his Courts only in respect of those cases where the amount of the claim is within his partial jurisdiction, whereas the processes and decrees in cases above that amount fall within the orders governing Courts established by the Governor-General in Council as they exercise the *residuary* jurisdiction in respect of such State. An example of the doubts which arose in connection with a case of this kind is afforded by a reference as to the correct procedure in the case of the Third Class Taluka of Chuda in Káthiáwár, disposed of by Government Resolution No. 3433, dated the 2nd June 1897. Next to the question of reciprocity as the basis of *negotiation* comes that of the fitness of Native State Courts to be recognised for the purposes of reciprocity as regards service of summonses and execution of decrees. Obviously the recognition of Native State Courts in regard to the former requires much less scrutiny than similar recognition as to the enforcement of their final decrees. That difference is indicated in the freedom with which recognition under section 650-A has been accorded and the care with which applications for inclusion in notifications under section 229-B are scrutinised. The latter is a much more important concession which cannot be granted without a real assurance of the efficiency of the Native State Court. When there is no such reciprocity of execution, the decree of the Native State Court can still be enforced in British territory by a suit on the judgment, subject to the safeguards provided by the last clause of section 14 of the Civil Procedure Code. But if reciprocity of execution is granted, the decree must be enforced without enquiry (except as to the jurisdiction) and without the possibility of remedy if it has been improperly obtained. The only manner in which the decree of a French Court in Pondicherry or of a Portuguese Court in Goa or of a European Court can be enforced in British

India is by a suit on the judgment. For a long time the Bombay High Court maintained that not even in this manner could the decree of a Native State Court be enforced (I. L. R., 6 Bom., 292, and I. L. R., 8 Bom., 593); but this view has been swept away by the addition in 1888 of the last clause of section 14 and by the remarks of the Privy Council in the case of *Sardar Gurdial Singh vs. Rajah of Faridkhot* (I. L. R., 22 Cal., at page 237). Since the decisions of the Bombay High Court were written great improvements have been made in the constitution and procedure of many of the Native State Courts. Still the question of admitting them to reciprocity in the matter of execution is one that must be dealt with very cautiously. The administration of Native States, especially of the smaller States, must fluctuate a good deal according to the capacity of the Chief, and it must be borne in mind that a party may be ruined by a decree improperly obtained against him. Of course this may happen in British Courts, but the risk is probably greater in the Courts of Native States. The Courts of no State, whether under its own Ruler or under administration, should therefore be granted privilege under section 229-B, unless the Political Agent is prepared to certify that its judiciary possesses efficiency and independence of a somewhat lasting character.

7. Thus a State desiring recognition must not only give reciprocity but must also give satisfactory evidence that it has accorded to British Courts in its own territories the privileges which it seeks in British territories. Just as British Acts and Notifications in this matter are accessible to the States in the *Gazettes*, so the States must deposit with the Political Agent for the information of Government copies of the orders they have issued to secure reciprocity to British Courts, in order that the Governor in Council may be able to satisfy himself that reciprocity has really been granted and that there may be some formal record thereof (as there is on the British side), should British Courts have cause to complain that the Native State Courts are not duly assisting them in the matter. When recommending such requests the Political Agent must further certify that the Courts of the State are fit for the privilege. These being the principles which must underlie inclusion in these notifications it must always be a question whether the privileges granted to the Courts of States, while the States were administered by the British Government, should be continued on powers being handed over to the Chief. The decision must depend on the probability of the efficiency and independence of the Courts being maintained.

8. As a general rule Government will not take the initiative in negotiations on this subject with the States. If the States do not value the compliment of such recognition of their Courts by the Paramount Power and the advantages following thereon, there is no need for Government to move in the matter. But there seems to be so great a misunderstanding of the situation in Káthiáwár that the Agent to the Governor should explain the whole matter to the First and Second Class States in his Agency and enable them to understand that what they apparently regarded with some suspicion was in reality a high mark of appreciation by Government of the efficiency to which they have raised their Civil Courts. They can then, if they see fit, individually make application on behalf of their Courts at the same time offering the evidence of (1) reciprocity, (2) the fitness of their Courts for the privilege sought. Generally also it will be gathered from what has gone before that (1) many of the suggestions which have been made by the Political Agents are inconsistent with the requirements of the law as regards Courts of the status discussed, (2) the present revision of the notifications has been confined to what is necessary to bring them up to date, and (3) any applications for further inclusions must emanate from the State concerned on a correct apprehension of what such inclusion means and be submitted by the Political Agent only when he is satisfied of the efficiency of the Courts and of the sufficiency of the orders issued in the Native State concerned to secure the same privileges to British Courts therein as the Darbar seeks to obtain from the British Government.

To summarize:—

On the part of the British Government nine notifications are required over and above the direct provisions of the law to give British Indian Courts and Courts established by the Governor-General in Council the necessary authority and protection. Out of these four need no revision and five have been revised so as to bring them into accord with existing conditions in the Agencies:—

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| (1) Giving a list of Courts established with reference to sections 99, 229, 229-A, 229-B, and 650-A of the Civil Procedure Code. | Government of India Notification No. 4049-I.A., dated the 18th September 1902. |
| (2) Authorising service of processes of British Indian Courts by Courts established by the Governor-General in Council. | Government of India Notification No. 1366-I., dated the 29th March 1899. |
| (3) Authorising execution of decrees of British Indian Courts by Courts established by the Governor-General in Council. | Government of India Notification No. 4050-I.A., dated the 18th September 1902. |
| (4) Authorising service of processes of Courts established by the Governor-General in Council by other such Courts. | Government of India Notification No. 1367-I., dated the 29th March 1899. |
| (5) Authorising execution of decrees of Courts established by the Governor-General in Council by other such Courts. | Government of India Notification No. 1368-I., dated the 29th March 1899. |
| (6) Authorising service of processes of Native State Courts by Courts established by the Governor-General in Council. | Government of India Notification No. 2182-I., dated the 2nd July 1899. |
| (7) Authorising execution of decrees of Native State Courts by Courts established by the Governor-General in Council. | Government of India Notification No. 4051-I.A., dated the 18th September 1902. |
| (8) Authorising service of processes of Native State Courts by British Indian Courts (section 650-A, Civil Procedure Code). | Government of India Notification No. 4053-I.A., dated the 18th September 1902. |
| (9) Authorising execution of decrees of Native State Courts by British Indian Courts (section 229-B, Civil Procedure Code). | Government of India Notification No. 4052-I.A., dated the 18th September 1902. |

On the part of the Native States—

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| (1) Service of processes of British Indian Courts by Native State Courts. | } Must be secured by orders of the Chief concerned before corresponding privileges can be granted to Native State Courts. |
| (2) Execution of decrees of British Indian Courts by Native State Courts. | |
| (3) Service of processes of Courts established by the Governor-General in Council by Native State Courts. | |
| (4) Execution of decrees of Courts established by the Governor-General in Council by Native State Courts. | |

S. W. EDGERLEY,
Acting Chief Secretary to Government.

To

The Commissioner in Sind, The Commissioner, N. D., The Commissioner, C. D., The Commissioner, S. D.,	} With copies of the notifications quoted in paragraph 9 of the Resolution.

[P. T. O.]

The Agent to the Governor, Káthiáwár,
 The Political Agent, Kolhápúr and Southern Marátha
 Country,
 The Political Agent, Rewa Kántha,
 The Political Agent, Cutch,
 The Political Agent, Mahi Kántha,
 The Political Agent, Sávantvádi,
 The Political Agent, Pálanpur,
 The Collector and Political Agent, Surat,
 The Collector and Political Agent, Khándesh,
 The Collector and Political Agent, Sátára,
 The Collector and Political Agent, Thána,
 The Collector and Political Agent, Kolába,
 The Collector and Political Agent, Dhárwár,
 The Collector and Political Agent, Kaira,
 The Collector and Political Agent, Sholápur,
 The Collector and Political Agent, Poona,
 The Collector and Political Agent, Bijápur,
 The Collector and Political Agent, Násik,
 The Judicial Commissioner in Sind,
 All District Judges (including Assistant Judges, F.P.),
 The Chief Judge of the Court of Small Causes, Bom-
 bay,
 The Judge of the Court of Small Causes, Ahmedabad,
 The Judge of the Court of Small Causes, Poona,
 The Judge of the Court of Small Causes, Surat and
 Broach,
 The Judge of the Court of Small Causes, Karáchi,
 The Prothonotary and Registrar of His
 Majesty's High Court of Judicature,
 Original Jurisdiction, Bombay,
 The Registrar of His Majesty's High
 Court of Judicature, Appellate Side,
 Bombay,
 The Judicial Department of the Secretariat.

With copies of the
 notifications
 quoted in pára-
 graph 9 of the
 Resolution.

By letter.

*The Private Secretary to His Excellency
 the Governor.*

No 8384 of 1902
 Dhauwa, 7th November 1902

*Copy forwarded for information and
 guidance to the Swan of Lawan.*

R. M. M. M.

Ed clerk

9-11-02
W. S.